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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,215	02/12/2002	Brook W. Lang	BIOS 109	8756

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EXAMINER	
MOSSER, ROBERT E	
ART UNIT	**PAPER NUMBER**
3714	2

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/075,215	LANG, BROOK W.	
	Examiner	Art Unit	
	Robert Mosser	3714	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☒ Claim(s) *8* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a)☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Objections

1. Claim 8 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Specifically claim 8 depends from claim 7 which in turn depends from claim 5, and wherein the limitations of claim 8 are recited verbatim in the limitations of claim 5.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. There is insufficient antecedent basis for the following limitations in the claims.

Claim 1 recites the limitation "said wireless telephone" on line 4.

Claim 1 recites the limitation "the location information" on line11.

Claims 2, 4, and 7 recite the limitation "said location-based software game" on lines 1, 1, and 1.respectively.

Claim 4 recites the limitation "the memory" on line 2.

Claims 4, 9, and 11 recite the limitation "said central computer" on lines 2, 2, and 2 respectively.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Rautila (US 6,524,189).

Regarding claims 1-4. Rautila teaches a multi-player game system using mobile telephones including a wireless communication network capable of transmitting digital information (Figure 1), at least one wireless device capable of transmitting and receiving digital information from the said wireless communication network with a wireless telephone being assigned to each player (Col 1;13-38), a physical location means coupled to said wireless device used o determine the location of the player (Figure 5), a wide area computer network coupled to said wireless communication network (340,320) to enable the physical location of said player to be uploaded from said wireless communication network, a central computer (Figure 5, 330), and a location-based

software game that uses location information from each said player to achieve the object of the game (Col 6:16-24). Further the game software is downloaded from the server to the memory of the wireless device and as such is located in both the memory of the wireless device and the memory of the central computer as claimed (Col 4:25-31).

Regarding claim 9 in addition to the above stated. Rautila teaches the use of the internet as the interface between the wireless device and the central computer / server (330) and as such the use of client side and server side software for the purposes of allowing the deices to communicate is considered inherent to internet communication and required for device operation as described by Rautila.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirkpatrick et al (6,459,989) in further view of Rautila (US 6,524,189).

9. Regarding claims 1-9. Kirkpatrick et al teaches the use of Laser Tag (a position based game in a wireless positioning tracking system incorporated over a wireless communication network coupled to a wide area computer network (Figure 2) and a a central computer (24). Kirkpatrick et al further teaches the inclusion of the monitoring and recording of hits that have been transmitted by a transmitter (*Kirkpatrick et al* Col 8:10-41) in the Laser Tag system in addition to the tracking of the players by the player GPS antennas equivalently a database file for said player to record the location of said player as so claimed (*Kirkpatrick et al* Col 5:34-6:23). . Kirkpatrick et al is silent however regarding the inclusion of a wireless telephone into the wireless system and the location in which the program is stored. Rautila however discloses the storage of the program both on the server and the wireless device in addition to the assignment of a wireless telephone to each player as discussed above in paragraph five of this rejection.

It would have been obvious for one of ordinary skill in the art at the time of invention to have incorporated the game storage methods and wireless telephone aspects of Rautila in the invention of Kirkpatrick in order enhance player communication through the use of wireless telephones in the game of Rautila

Regarding claim 10. The objective of finding other players and "Tagging" them is an inherent feature of laser tag.

Regarding claims 11 and 12. The system of Rautila displays the other players in a given location (Figure 5), which reads on a means to transmit clues to said players to find said target as it tells the players in what other players are in their area and at the same time selects the targets for the players by presenting clues only directed to those players in a given area.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2003/0064712 - Gaston et al teaches an interactive real world event system via computer networks.

US 6,530,841 B2 – Bull et al teaches an electronic tag game.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (703)-305-4253. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

REM

S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700